IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

WP(C).No. 27404 of 2006(K)

PETITIONER:

BENNY CHERIAN,
S/O.M.A.CHERIAN, AGED 33 YEARS,
MADATHIPARAMBIL HOUSE, PANAMARAM POST,
PIN-670 721, WAYANAD DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

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1. PANAMARAM GRAMA PANCHAYATH,
PANAMARAM, WAYANAD DISTRICT,
REP. BY ITS SECRETARY.

2. THE REGIONAL TRANSPORT OFFICER,
WAYANAD.

3. THE SUB INSPECTOR OF POLICE,
PANAMARAM.

4. STATE OF KERALA,
REP. BY THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

BY SRI.G.P.SRI.MATHEW G.VADAKKAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO. 27404 of 2006

Dated this 30th day of November, 2006

JUDGMENT

Ext.P1 resolution of the first respondent Panchayat, by which the buses are insisted upon to enter the bus stand established by the Panchayat is under challenge. The ground prominently raised is that Ext.P1 is bad on account of the violation of the mandates of Rule 344 of the Motor Vehicles Kerala Rules.

2. The Panchayat has not entered appearance in spite of service of notice. The learned Government Pleader on instructions from the 2nd respondent submits that the 2nd respondent has not been conssulted at all in the matter. He further submits about five years ago a decision was taken that vehicles shall not enter the bus stand in question from 9 A.M. To 12 A.M. And 1.30 P.M. to 5.P.M. and that the said decision was taken with the concurrence of the RTA. It would thus appear

that the 2nd respondent is virtually supporting the stand of the petitioner that Ext.P1 resolution is bad for want of concurrence of the RTA.

3. Under the above circumstances, the writ petition will stand allowed. Ext.P1 resolution is quashed and the first respondent Panchayat is directed to take a fresh decision after referring the issue to the Regional Transport Authority and after getting the concurrence from the RTA. Fresh decision as directed above will be be taken by the Panchayat at its earliest. The petitioner shall be permitted to submit his objections in writing regarding the proposal, which is subject matter of Ext.P1, before the decision is taken.

PIUS C.KURIAKOSE
Judge

dpk